

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

JOEY DEAL,

Petitioner,

v.

Civ. No. 08-439 JH/RLP

ANTHONY ROMERO, Warden,

Respondent.

ORDER

THIS MATTER comes before the court on Petitioner's Objections to the Magistrate Judge's Report and Recommendation [Doc. 22]. The Court notes that the objections were due on or before November 6, 2008 and that although the objections were not received until November 10, 2008, the Court evaluates the timeliness as of the date the document was signed and mailed, not the date it was filed filed. See *Dunn v. White*, 880 F.2d 1188, 1190 (10th Cir.1989) (*per curiam*). The filed documents indicate they were mailed on November 6 and so will be considered timely.

Having conducted a *de novo* review of the record, the Court finds that Petitioner's objections are not well-taken and further finds that the Magistrate Judge's Report and Recommendation shall be adopted.

IT IS THEREFORE ORDERED that Petitioner's Motion to Dismiss Unexhausted Claims [Doc. 19] is granted; and

IT IS FURTHER ORDERED that the Magistrate Judge's Report and Recommendation is adopted by the Court and this case is dismissed with prejudice.

IT IS SO ORDERED.



Judith Herrera
United States District Judge